



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/759,108	12/02/96	QIN	J 12.975

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IM11/1125

EXAMINER  
REDDICK, M

ART UNIT	PAPER NUMBER
1713	

DATE MAILED: 11/25/98

Pl ase find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**08/759,108**

Applicant(s)  
**QIN ET AL**

Examiner  
**Judy M. Reddick**

Group Art Unit  
**1713**



☒ Responsive to communication(s) filed on 04/27/98, 05/21/98 and 09/08/98

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire Three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1, 2, and 4-34 is/are pending in the application.

Of the above, claim(s) 17-32 and 34 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 2, 4-16, and 33 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. After further consideration, coupled with the amendment to the claims + applicant's persuasive arguments, the rejection based on Mina et al is herein withdrawn.
2. Claims 1, 2, 4-16 and 33 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As far as the Examiner can tell, no express support can be found for the newly inserted limitation "and wherein the mixture is not a molecular level dispersion of the acidic water-swellaable, water-insoluble polymer and the basic material" per claims 1 and 33 and this, as such, without any guidelines from applicant as to where iron clad support might be found, engenders a New Matter situation.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
4. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4-16 and 33 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Chmelir'471 as per reasons of record.

Further, Chmelir vehemently states that the present invention is characterized by the fact that component B(corresponding to the basic material per the claimed invention) is added in the form of a powder to the polymer gel of component A(corresponding to polymer component a) of the claimed invention) and, in order to obtain a powdery, pourable end product, is dried, if necessary, and ground. To this end, this clearly meets the limitations of being a non-molecular level of dispersion of A) and B). See, e.g., the Abstract of Chmelir.

7. International WO 96/17681, submitted by applicant, is noted with interest in teaching a superabsorbent composition defined as containing a combination of

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(1) an anionic superabsorbent in which from 20 to 100% of the functional groups are in free acid form and (2) a cationic superabsorbent in which from 20 to 100% of the functional groups are in basic form and is considered merely cumulative to the prior art supra.

8. Applicant's arguments filed 09/08/98 have been fully considered but they are not persuasive.

Relative to Chmelir-- The crux of applicant's arguments appear to hinge on a) the use of aqueous solutions to prepare the composition of Chmelir and 2) the Examples not meeting the limitation of "--water-insoluble polymer comprises functional groups that has at least about 50 molar percent of the acidic functional groups in free acid form".

Relative to item 1)-- Applicant is cordially directed to the rejection supra in response to this argument.

Relative to item 2)-- Applicant is reminded that a reference is evaluated as a whole for what it fairly teaches and is in noway limited to the working examples and, to this end, the paragraph bridging cols. 2 and 3 teach that the use of

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homopolymers of (meth)acrylic acid are operable within the scope of his invention, the genus being sufficiently small enough to engender anticipation. To this end, the homopolymer of acrylic or methacrylic acid clearly meets the aforementioned claim limitation.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no

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event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

JMR *JMR*

11/19/98

*J. M. Reddick*  
**JUDY M. REDDICK**  
**PRIMARY EXAMINER**  
**GROUP 150 1700**